

The motion for a discovery conference is GRANTED. The telephonic conference is set for December 2, 2019, at 2:30 p.m. The parties shall call (888) 557-8511 and enter access code 7819165# to participate.

Alistair E. Newbern

Alistair E. Newbern
U.S. Magistrate Judge

IN THE UNITED STATES DISTRICT COURT
FOR THE MIDDLE DISTRICT OF TENNESSEE
AT NASHVILLE

VISION REAL ESTATE INVESTMENT)
CORP, et al.,)
Plaintiffs,) No. 3:18-cv-00014
v.)
METROPOLITAN GOVERNMENT OF) Judge Campbell
NASHVILLE AND DAVIDSON) Magistrate Judge Newbern
COUNTY, et al.)
Defendants.) JURY DEMAND

**MOTION TO CONDUCT DISCOVERY CONFERENCE REGARDING THE
DECEMBER 5 AND DECEMBER 6, 2019 DEPOSITIONS OF JERRY MAYNARD AND
PHYLLIS VAUGHN**

Defendant, the Metropolitan Government, hereby moves the Court for a discovery conference regarding the depositions of Jerry Maynard and Phyllis Vaughn, which have been noticed for **December 5 and 6, 2019** in this matter. *See* Subpoenas Doc. Nos. 102 and 103.

The Metropolitan Government seeks a discovery conference to determine the feasibility of moving forward with these depositions on the dates noticed because the Metropolitan Government currently has pending a motion to stay all discovery in this case (Doc. No. 109). The basis for the motion to stay is as follows:

On December 14, 2018, a Davidson County grand jury indicted Plaintiff Michael Hampton on 46 separate criminal counts . . . Counts 1 and 2 were for theft of property. Count 1 deals with theft from the trust accounts of residents of Autumn Assisted Living Facility. Count 2 deals with the theft of between \$10,000-\$60,000 from Metro, and Counts 3-46 are for willful abuse, neglect, or exploitation of adult residents of Autumn Assisted Living Facility. Metro respectfully submits that resolution of any of these criminal charges against Plaintiff Hampton would resolve any claims that he might have that Metro is liable for a violation of due

process rights, breach of contract, or any other claim in this case related to the collapse of the contracts at issue between Metro and Plaintiffs. Accordingly, Metro asks that this matter be stayed and administratively closed until the criminal charges against Plaintiff Michael Hampton have been resolved.

Plaintiffs oppose a stay of discovery, and Defendant MDHA has not yet expressed its position. However, because the motion to stay is pending, the Metropolitan Government reached out to Plaintiffs' counsel and MDHA's counsel about the possibility of having a discovery conference with the Court to discuss whether the December depositions should go forward as scheduled. MDHA was amenable to such a conference. Plaintiffs' counsel was not, indicating that Plaintiffs opposed the stay and thus "there was nothing to discuss." Accordingly, in an effort to get a conference with this Court prior to the scheduled depositions, and to preserve the Metropolitan Government's objection to such depositions going forward while the motion for stay is pending,¹ the Metropolitan Government now files this motion asking the Court to set a discovery conference prior to **December 5, 2019**² to address whether the depositions of Jerry Maynard and Phyllis Vaughn should be continued until after the Metropolitan Government's motion to stay is resolved.

¹ Notably, the Metropolitan Government also has a pending motion for judgment on the pleadings (Doc. No. 99) that, if resolved in the Metropolitan Government's favor, could very well dispose of all federal claims and result in the Court declining to exercise pendent jurisdiction over Plaintiffs' remaining claims, all of which sound in state law.

² The only date prior to December 5, 2019 on which undersigned counsel is unavailable is November 27, 2019. Undersigned counsel has not inquired as to other counsel's availability for a conference, given that not all counsel have agreed that participating in a discover conference is necessary.

Respectfully submitted,

DEPARTMENT OF LAW OF THE
METROPOLITAN GOVERNMENT OF
NASHVILLE AND DAVIDSON COUNTY
ROBERT E. COOPER,, JR., #10934
DIRECTOR OF LAW

/s/ Keli J. Oliver
Keli J. Oliver (#21023)
Melissa Roberge (#26230)
Assistant Metropolitan Attorneys
Metropolitan Courthouse, Suite 108
P.O. Box 196300
Nashville, Tennessee 37219
(615) 862-6341
Counsel for the Metropolitan Government

Certificate of Service

This is to certify that a copy of the foregoing has been forwarded via the court's ECF/CM system to:

George R. Fusner, Jr.
Law Office of George R. Fusner
Partin Ray Building
7104 Peach Court
Brentwood, TN 37027

Fred C. Statum III
J. Caralisa Connell
Manier & Herod, PC
1201 Demonbreun Street
Suite 900
Nashville, TN 37203

William T. Ramsey, Esq.
Kendra E. Samson, Esq.
Neal & Harwell, PLC
1201 Demonbreun Street
Suite 1000
Nashville, TN 37203

on this the 21st day of November 2019.

/s/Keli J. Oliver
Keli J. Oliver